

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE SOUTHERN DISTRICT OF TEXAS

3 HOUSTON DIVISION

4 UNITED STATES OF AMERICA § CASE NO. 4:17-cr-00514
§ HOUSTON, TX
5 VERSUS § WEDNESDAY,
§ APRIL 24, 2024
6 PAULO JORGE DA COSTA § 9:15 a.m. to 9:35 a.m.
CASQUIERO MURTA

7 MOTION HEARING

8 BEFORE THE HONORABLE RANDY CRANE
UNITED STATES MAGISTRATE JUDGE

9 APPEARANCES:

10 11 FOR THE PARTIES: SEE NEXT PAGE

12 COURT REPORTER: BENJAMIN ROMERO

13 COURT CLERK: DELIA RODRIGUEZ

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25 APPEARANCES:

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2 THE COURT: All right. Just call the case now, this
3 is 4:17-cr-514, USA versus Paulo Jorge Da Costa Casqueiro-
4 Murta. United States of America versus -- announcements for
5 the Government. I can't hear you. I don't know if you are on
6 mute or we're having audio problems. Hang on one second. So,
7 I can mute mine. Okay, can -- Ms. Patel, can you hear me?

8 MS. PATEL: I can hear you, Your Honor, there's a
9 little bit of feedback.

10 THE COURT: Okay.

11 MS. PATEL: But I can hear you.

12 THE COURT: Have we eliminated this feedback now?
13 You're still hearing feedback?

14 MS. PATEL: We've lost you.

15 THE COURT: Oh, okay, hang on. Can you hear me now?

16 MS. PATEL: Yes.

17 THE COURT: All right, we're going to try it now.

18 Can you hear me now, Ms. Patel? Okay, now, I can't hear you.

19 We're just trying to figure out what switches we need to flip
20 over here. How about if you all mute everything and let me try
21 to unmute me. All right, so, we're going to try this. Ms.
22 Patel, can you hear me? Okay.

23 So, whenever -- whatever we've done we have muted
24 you. Actually, let me see here. My volume, okay. All right,
25 Ms. Patel, can you count to three? So, here's my entire laptop

1 muted. All right, so, we're going to try this one again. Ms.
2 Patel, can you hear me?

3 So, anytime we fix the mic the speaker turns off.
4 You want to count to three again, Ms. Patel. I don't know what
5 we're doing, but we're -- we keep muting you. We have new
6 equipment in the courtroom. Turn off the audio in the
7 courtroom.

8 All right. So, again, let's start over. For
9 announcements in 17-cr-514, USA vs. Paulo Murta. Announcements
10 from the Government first.

11 MS. PATEL: Good morning, Your Honor, Sonali Patel on
12 behalf of the United States. I'm joined by my colleagues,
13 Michael DiLorenzo and Marihug Cedeno. Mr. Johnson, who usually
14 joins us from the Southern District of Texas, is dealing with a
15 personal emergency and so he's not in court this morning. So,
16 we apologize that there's no one present in person on behalf of
17 the United States.

18 THE COURT: All right, worries. And who do we have
19 here for Mr. Murta?

20 MR. KHALIL: Yes, hi, Samy Khalil, good morning Your
21 Honor, on behalf of Mr. Murta. And joining me is my colleague,
22 Joshua Lake.

23 THE COURT: All right. So, this was a case, I
24 thought, had some urgency and then you all have been asking for
25 more time, and more time, more time. And so, and even asked

1 this to be sort of a status hearing. And it (indiscernible)
2 heard that you all are trying to work something out in terms of
3 an agreement. Where are we on that?

4 MR. KHALIL: That's correct, Your Honor, we both have
5 -- we have both an announcement and a proposal --

6 THE COURT: Sure.

7 MR. KHALIL: -- for the Court. And we thank the
8 Court for its patience since the Court received the case in a
9 slightly and unorthodox and unusual and almost awkward position
10 after the fifth circuit revised opinion came down in January.

11 Since that happened, the parties have been working
12 diligently to try and resolve this case short of a trial.
13 There has been some urgency with respect to Mr. Murta's medical
14 condition. Just last week as well he learned that his 84-year-
15 old grandmother suffered a stroke and is suffering some
16 paralysis in a hospital in Lisbon, Portugal.

17 So, the announcement is that we have reached an
18 agreement to proceed via a superseding information that would
19 charge a one Count 371 conspiracy.

20 THE COURT: Okay.

21 MR. KHALIL: So, we reached an agreement in principle
22 this week. We are also continuing to work out the details
23 including the factual basis, its scope, and the monetary
24 components of that. And but we have an agreement in principle.

25 THE COURT: All right.

1 MR. KHALIL: So, that's the announcement we have, and
2 we do appreciate the Court's patience. And then, I don't if
3 Ms. Patel wants to add any to that announcement and then I'm
4 happy to go to the proposal portion of the hearing.

5 THE COURT: All right. Ms. Patel, would you say that
6 fairly and accurately represents the, I guess, the agreement
7 you all have in principle?

8 MS. PATEL: I believe so, Your Honor. I was having a
9 little bit of trouble hearing Mr. Khalil. So, I'm just going
10 to repeat what I think I heard.

11 THE COURT: Sure.

12 MS. PATEL: And you all can let me know if I missed
13 anything. I believe that Mr. Khalil stated that we have an
14 agreement in principle for Mr. Murta to plead guilty to one
15 count of conspiracy in violation of 18 U.S.C 371, that the
16 parties are still, you know, working towards a factual proffer
17 that the United States would file a superseding information by
18 which it would charge Mr. Murta with that count.

19 And I believe that Mr. Khalil mentioned that the
20 Defense would be making a request with respect to sentencing,
21 but I don't know if he did and so I don't want to speak before
22 he does. So, I'm just going to ask that question.

1 MR. KHALIL: That's correct.

2 THE COURT: Right, the monetary amount?

3 MR. KHALIL: As far as the plea resolution, we are
4 still working on the monetary component as well as the factual
5 basis. But with respect to the proposal, and I think this is
6 where Ms. Patel is going, we would propose having, with the
7 Court's permission obviously, Judge Miller do the plea to
8 information and also sentencing for a number of reasons.

9 THE COURT: I can stop you right now. So, Judge
10 Miller is going to be unavailable May through October and has
11 indicated that he is going to be retiring --

12 MR. KHALIL: Fully?

13 THE COURT: -- fully. And I don't believe he's going
14 to hear anything anymore.

15 MR. KHALIL: Okay. We looked --

16 THE COURT: And maybe as a special -- I don't know if
17 he has a connection to this case or --

18 MR. KHALIL: He does. He has sentenced seventeen of
19 the Defendants in this case and we thought as a matter of
20 fairness to Mr. Murta as well as consistency --

21 THE COURT: Sure.

22 MR. KHALIL: -- that it would make sense for him to
23 sentence Mr. Murta. In fact, Judge Miller has been involved
24 since 2015 --

25 THE COURT: Oh.

1 MR. KHALIL: -- in various aspects of this case. And
2 I think he was involved even before the three DOJ prosecutors
3 were involved in this case.

4 THE COURT: I mean, I can certainly reach out to him
5 and say hey as a special request do you want to do this. But
6 he has indicated to me because I work with him on other --

7 MR. KHALIL: Understood.

8 THE COURT: -- scheduling and getting him cases, he
9 generally does the sentencing and all of Judge Hues's cases.

10 MR. KHALIL: Sure.

11 THE COURT: But --

12 MR. KHALIL: We noticed that he has on his docket at
13 least as of last night, sentencing set for May 8th and May
14 21st.

15 THE COURT: Okay.

16 MR. KHALIL: And we believe we can meet either one of
17 those dates.

18 THE COURT: Okay.

19 MR. KHALIL: We would prefer the earlier date --

20 THE COURT: Sure.

21 MR. KHALIL: -- in fact because there is some urgency
22 with respect to both Mr. Murta's medical health.

23 THE COURT: Mm-hmm.

24 MR. KHALIL: He's been getting treatment here in the
25 United States for this condition. He has a tumor in one of his

1 inner ears. But to get the full surgery he needs to be back in
2 Portugal where he has healthcare, and his main doctors are.
3 And then, his mother as well.

4 THE COURT: So, that --

5 MR. KHALIL: And I'm happy to reach out to Glenda
6 Hussan, --

7 THE COURT: Sure.

8 MR. KHALIL: -- his case manager, as well and perhaps
9 make the proposal to Judge Miller from our side.

10 THE COURT: So, but, another problem with that it's
11 only -- it's -- well, the May date, the earlier May date, is
12 less than a month away. Well, they're both less than a month
13 away. That doesn't give the probation office time to do a PSR.

14 MR. KHALIL: And I should have mentioned as part of
15 the plea agreement the parties have agreed to at least file a
16 motion to waive the presentence report and investigation. We
17 think that's something -- one reason that it might make sense
18 to try and do this in front of Judge Miller who has ten years'
19 worth of experience, nearly ten years' worth of experience,
20 sentencing people and understanding the nuances of this case
21 and where people fall --

22 THE COURT: Sure.

23 MR. KHALIL: -- frankly with respect to culpability.

24 THE COURT: Right, relative culpability.

25 MR. KHALIL: Sure.

1 THE COURT: I mean, I have no issues with that
2 whatsoever. I'll just need to check with Judge, I mean deal
3 directly with Judge Miller. But why don't I reach out to him,
4 and I can let you all know and give you all a date.

5 If he's just not available, then we can regroup and
6 figure out where to go from there. I'm one of these people
7 that studies all of the co-defendants sentencing and figure out
8 relative culpability and I rely on at the advocacy of you and
9 the Government to sort of tell me where he sort of lands in the
10 hierarchy.

11 I have not looked at any of their sentences, but
12 somebody one time said everybody got pretty light sentences so
13 far. And so, again, I you know -- and there's still one co-
14 defendant out there who hasn't been sentenced here on this
15 case.

16 MR. KHALIL: Well, --

17 THE COURT: Right, yeah, okay.

18 MR. KHALIL: Right.

19 MS. PATEL: That is correct, Your Honor.

20 THE COURT: And so, I would want the same judge, I
21 guess, to do both of them.

22 MR. KHALIL: We are happy to proceed before this
23 Court, obviously, we just thought it made sense given the time
24 sensitivities and assessment and institutional experience
25 essentially --

1 THE COURT: Sure. No, I 100 -- I think --

2 MR. KHALIL: -- that Judge Miller has.

3 THE COURT: 100 percent agree, yeah.

4 MR. KHALIL: So, if the Court, you're the Chief
5 Judge, I'm a lowly lawyer. If the Court wants to reach out to
6 him or I'm happy to do it as well.

7 THE COURT: All right. So, we'll -- I'll reach out
8 to him. And there are personal reasons why he's not hearing
9 cases and so --

10 MR. KHALIL: Understood.

11 THE COURT: -- let me -- let me reach out to him and
12 see if he would do this one. And the co-defendant, hopefully
13 we could get them both set for the same time. I don't remember
14 what the co-defendant was looking at in his PSR, but I know he
15 does have a presentence report.

16 So, let me do this. Just so I don't lose track of
17 this case, I'll reset this for when I'm going to be up here in
18 May which May 21st and we'll just call it a status conference.
19 But if you all are ready to be -- if you have all your ducks in
20 a row and Judge Miller's not available then I can rearraign you
21 the superseding indictment or arraign you on it.

22 And so, get that plea out of the way and if you all
23 tell me you're ready for sentencing on that date, I mean, I'll
24 study up with all the other PSRs to see, you know, where we
25 are. My impression from what you're telling me is you all

1 think this is just going to be a time served probation kind of
2 a sentence?

3 MR. KHALIL: That's certainly what we would --

4 THE COURT: What you're hoping for.

5 MR. KHALIL: -- be advocating.

6 THE COURT: And Ms. Patel is that kind of what you're
7 thinking it's going to end up being also or no --

8 MS. PATEL: Well, we are not going to be asking for a
9 time served sentence, Your Honor.

10 THE COURT: Okay.

11 MS. PATEL: You know, we expect that Your Honor will
12 look at the other sentences that have granted in this case and
13 sentence Mr. Murta appropriately. You know, we'll be prepared
14 to provide Your Honor with a sense of where we think Mr. Murta
15 falls with respect to other Defendants --

16 THE COURT: Sure.

17 MS. PATEL: -- who have been sentenced in the broader
18 conspiracy. But we're not asking for a time served sentence.

19 THE COURT: Okay. So, do you need a gap between
20 arraignment and sentencing or you think you'll be ready at that
21 point?

22 MR. KHALIL: I think we'll be ready at --

23 THE COURT: Okay.

24 MR. KHALIL: -- that point and would have on file a
25 motion to waive the presentencing investigation --

1 THE COURT: Okay and just proceed with sentencing.

2 MR. KHALIL: -- report.

3 THE COURT: And again, you'll have an agreed loss
4 amount, or I don't know what you call it, a fraud amount or a
5 monetary component agreed dollar amount?

6 MR. KHALIL: Yeah, we are working on that, and I do
7 think we're not going to have any contested sentencing issues.
8 And to the extent that the guidelines might be higher than the
9 five years statutory maximum, the statutory maximum becomes the
10 guideline --

11 THE COURT: Sure.

12 MR. KHALIL: -- range.

13 THE COURT: Okay. And you're going to advocate
14 whatever 35 53 A factors is how --

15 MR. KHALIL: Exactly.

16 THE COURT: -- the amount of -- he's been here --

17 MR. KHALIL: Three years nearly.

18 THE COURT: -- deprived of his liberty, he can't
19 travel.

20 MR. KHALIL: He can't work either here.

21 THE COURT: Or work either, okay. All right. Well,
22 let me reach out to Judge Miller and just so I can let him know
23 what it is you're asking for. He would do the same thing that
24 I was contemplating. That is, he would arraign the Defendant
25 on a superseding criminal information and proceed to sentencing

1 him at that same hearing.

2 MR. KHALIL: Yes, sir.

3 THE COURT: Great, okay. Then I will reach out to
4 him. If he's willing to do that, you'll see that I'll transfer
5 this case to him, and we'll let you know either way. But
6 otherwise, I'll leave it on my docket for May 21.

7 MR. KHALIL: Perfect.

8 THE COURT: Back here, that's an afternoon setting.
9 That's -- if it's a Tuesday, it's an afternoon setting. Yep,
10 okay. And we should know shortly. Yeah, okay, so, the
11 afternoon of the 21st?

12 MR. KHALIL: That's fine.

13 THE COURT: Perfect, okay.

14 MR. KHALIL: Thank you, Your Honor.

15 THE COURT: All right, then I'll either see you again
16 or I won't. So, but if everybody's --

17 MR. KHALIL: But regardless, thank you for --

18 THE COURT: Sure.

19 MR. KHALIL: -- handling this case so far.

20 THE COURT: Happy to and but I'm happy to send it to
21 Judge Miller or anyone else. All right, well, thank you all
22 for being here. You're all excused on that one.

23 MR. KHALIL: Okay, appreciate it.

24 THE COURT: All right, and then --

25 MS. PATEL: Thanks, Your Honor.

1 THE COURT: You're welcome.

2 (Hearing adjourned at 9:34 a.m.)

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1 C E R T I F I C A T I O N

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3 I, Sonya Ledanski Hyde, certified that the foregoing
4 transcript is a true and accurate record of the proceedings.

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Sonya M. Ledanski Hyde

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Date: April 26, 2024